



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
 BOARD OF PATENT APPEALS AND INTERFERENCES
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PAT. & T.M. OFFICE
 BOARD OF PATENT APPEALS
 AND INTERFERENCES

Applicant: DeBonte
 Application No.: 10/034,698
 Filed: 12/27/01
 For: Canola Oil from seeds with reduced
 Glucosinolates and linolenic acid

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,163.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

Linda R. Poteate
 Linda R. Poteate
 Administrative Patent Judge

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Administrative Patent Judge
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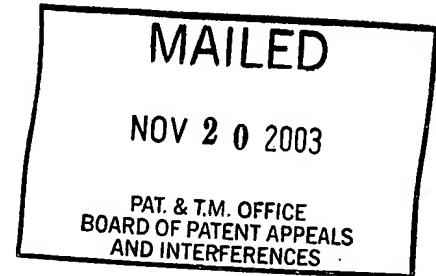
Filed
20 November 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

LORIN R. DEBONTE
Junior Party
(Application 10/034,698),

v.



JOHN L. SERNYK and JUAN E. ROMERO LANUZA
Senior Party
(Patent 5,965,755).

Patent Interference No. 105,163

NOTICE DECLARING INTERFERENCE
(37 CFR § 1.611)

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

Part B. Judge designated to handle the interference

Administrative Patent Judge Linda R. Poteate has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for taking action in the interference is scheduled for 11:30 a.m. (Eastern) on January 13, 2004 (the call will be initiated from the PTO).

No later than two business days prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶ 10.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE. Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. The parties involved in this interference are:

Junior Party

Named inventors: Lorin R. DeBonte, Fort Collins, CO

Application: 10/034,698, filed on December 27, 2001

Title: Canola oil from seeds with reduced glucosinolates and linolenic acid

Assignee: None

Accorded Benefit: Application 09/861,905, filed May 21, 2001

Application 08/850,279, filed May 5, 1997, now U.S. Patent 6,270,828B1, issued August 7, 2001

Application 08/290,660, filed August 15, 1994, now U.S. Patent 5,750,827, issued May 12, 1998

Application 08/140,205, filed November 12, 1993

Application 07/767,748, filed September 30, 1991

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: John L. Sernyk, Madison, WI
Juan E. Romero Lanuza, Madison, WI

Patent: 5,965,755, issued October 12, 1999, based on
Application 08/374,402, filed January 17, 1995

Title: Oil produced from the Brassica Napus

Assignee: Agrigenetics, Inc.

Accorded Benefit: Application 08/135,105, filed October 12, 1993

Attorneys: See last page

Address: See last page

Part F. Count and claims of the parties

Count 1

An oil from the seed of *Brassica napus* or a canola oil, said oils having an oleic acid content of 71.4% to about 72.6% and a linolenic acid content of about 1.3% to 2.1%.

Count 2

An oil produced from the seed of *Brassica napus* or a canola oil, said oils having an (oleic acid + linoleic acid)/linolenic acid ratio value of from about 41.2 to 51.8 and a linoleic + linolenic acid content ranging from 16.3 to 18.7.

The claims of the parties are:

DeBonte: 20-72

Sernyk: 1-11

The claims of the parties which correspond to Count 1 are:

DeBonte: 20-58, 61, 62, 65, 66, 69 and 70

Sernyk: 1, 2 and 9

The claims of the parties which correspond to Count 2 are:

DeBonte: 59-60, 63, 64, 67, 68, 71 and 72

Sernyk: 10 and 11

The claims of the parties which do not correspond to Counts 1 and 2, and therefore are not involved in the interference, are:

DeBonte: None

Sernyk: 3-8

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See STANDING ORDER ¶ 3.5.

Filed on behalf of [name of party]
By: Name of lead counsel
Name of backup counsel
Street address
City, State, and Zip-Code
Tel:
Fax:

Paper ¹

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
Administrative Patent Judge Linda R. Poteate)

LORIN R. DEBONTE
Junior Party
(Application 10/034,698),

v.

JOHN L. SERNYK and JUAN E. ROMERO LANUZA
Senior Party
(Patent 5,965,755).

Patent Interference No. 105,163

TITLE OF PAPER

¹ Leave a blank line because the board assigns the paper number.

Part H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

- ¶ 4: date for identifying lead and backup counsel.
- ¶ 5: date for identifying any real party in interest.
- ¶ 6: date for requesting copies of involved and benefit applications and patents.
- ¶ 7: date for accomplishing certain discovery.
- ¶ 8: date for filing clean copy of claims.
- ¶ 9: date for filing clean copy of claims in cases with drawings or claims containing a means plus function limitation.
- ¶ 10: date for filing list of proposed preliminary motions.
- ¶ 13.10.2: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ¶ 14.1.1: date for objecting to admissibility of evidence.
- ¶ 14.2: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- ¶ 14.3: dates when cross-examination can take place.
- ¶ 15.2: dates for taking action with respect to settlement discussions.

Part I. Order form for requesting file copies

FILE COPY REQUEST
Interference 105,163

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, ZIP code and telephone number (do not list a Post Office box because file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge


Linda R. Poteate
Administrative Patent Judge

Date: 11-20-03

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Form PTO-850

Copy U.S. Patent 5,965,755

Copy of claims of Application 10/034,698

Revised May 2003

cc (via overnight delivery):

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